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January 8, 2009

Via Facsimile and U.S. Mail
(202) 219-3923

Jeff S. Jordan
Frankie D. Hampton
Complaints Examination & Legal Review
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

Re: **Committee to Re-Elect Loretta Sanchez**
MUR 6140

Dear Mr. Jordan and Ms. Hampton:

As you know, this office is legal counsel to the Committee to Re-Elect Loretta Sanchez ("Committee"). The purpose of this letter is to provide the FEC with the Committee's written response as to why no action should be taken with respect to the referenced Complaint and investigation.

A. Complaint Erroneously Alleges That \$334.09 Was Spent On Clothing.

The Complaint alleges that the Committee improperly paid "a total of \$334.09 for personal clothing for the candidate, Loretta Sanchez," in violation of 2 U.S.C. § 439a(b) and 11 C.F.R. § 113.1(g)(1)(i)(C). [Complaint at ¶ 20.] However, the Complaint errs in alleging that the amount of \$334.09 was used for clothing. Rather, as explained below, only \$145.12 was spent on clothing.

On page 94 of the Form 3, Schedule B, there is a reimbursement dated November 20, 2007, in the amount of \$188.97, to Congresswoman Sanchez described as "Meeting Clothing." [See Exhibit B of Complaint.] Out of this \$188.97, only \$145.12 was used for "Clothing," as described in a memo item/entry listed on page 95 of the Schedule B on August 30, 2007. The purpose of the memo item/entry of \$145.12 was to identify the portion of the \$188.97 reimbursement that was utilized for clothing. The Complainants erroneously add the \$188.97 entry on page 94 to the memo item/entry amount of \$145.12 on page 95 to reach their claim of \$334.09. A copy of the receipt indicating payment of \$145.12 is attached as Exhibit 1.

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B. Purchase Of Vietnamese Dress Was Not For Personal Use.

The reimbursement of \$145.12 to Congresswoman Sanchez was not for "personal use" as described in 2 U.S.C. § 439a(b) and 11 C.F.R. § 113.1(g)(1)(i)(C). Both the statute and regulation provide that the governing test for determining whether an expense constitutes "personal use" is the so-called "irrespective test." Here, the reimbursement in question was for the purchase of two traditional Vietnamese costumes or dresses—called an "AoDai"—that Congresswoman Sanchez wore at various Vietnamese cultural events held in her Congressional District. The 47th Congressional California District has one of the largest Vietnamese-American populations in the United States.

As part of Congresswoman Sanchez's duties as a U.S. Representative and/or as a candidate for re-election, she is asked by her Vietnamese-American constituents to attend various Vietnamese cultural events in her District, including the annual Tet festival and parade. (Tet is the celebration of the Vietnamese Lunar New Year and the most important holiday in Vietnamese culture.) In any given year, she may also be invited to other similar cultural events, including Vietnamese Mother's Day celebrations. Based on her prior experiences with her Vietnamese-American constituents, Congresswoman Sanchez knew that it would be inappropriate for her to attend these Vietnamese cultural events wearing "Western" dress because her Vietnamese-American constituents would view this as disrespectful and culturally insensitive. As such, Congresswoman Sanchez purchased a traditional Vietnamese AoDai to wear to these Vietnamese cultural events.

Congresswoman Sanchez has worn the AoDai to various Vietnamese cultural events, including the annual Tet festival and parade on February 9, 2008, and the Thuy Nga "Paris by Night" Concert on September 15, 2007. Pictures of the AoDais, including the Congresswoman dressed in [one of] them are attached as Exhibit 2. Being that the AoDai is a traditional form of Vietnamese dress, Congresswoman Sanchez has worn the AoDai only to Vietnamese cultural events where she felt the AoDai was required, and would not have purchased the AoDai but for these Vietnamese cultural events, which she attended in her capacity as a U.S. Representative and/or candidate.

Based on the foregoing, it is clear that Congresswoman Sanchez's purchase of the AoDai and the reimbursement of this purchase by her Committee passes the irrespective test set forth in both 2 U.S.C. § 439a(b) and 11 C.F.R. § 113.1(g)(1)(i)(C). Although 11 C.F.R. § 113.1(g)(1)(i)(C) purports to establish an irrebuttable presumption that "clothing" can never meet the irrespective test (11 C.F.R. § 113.1(g)(1)(i)(C) provides that "Personal use includes . . . (C) Clothing, other than items of de minimis value that are used in the campaign, such as campaign 'T-shirts' or caps with campaign slogans"), the regulation clearly exceeds the scope of the statute (2 U.S.C. § 439a(b)) by creating such an irrebuttable presumption. Although 2 U.S.C. § 439a(b) lists "a clothing purchase" as one of the examples of items that may be considered "personal use," it does not establish an irrebuttable presumption. As such, it is the Committee's position

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Jeff S. Jordan
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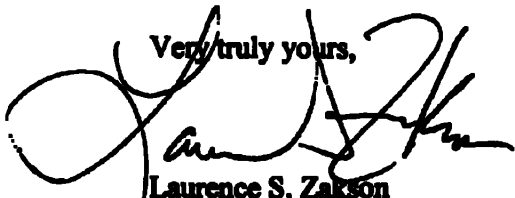
that the purchase of the AoDai does not violate 2 U.S.C. § 439a(b) because the purchase meets the requirements of the irrespective test.

C. Reimbursement Of Committee By Congresswoman Sanchez For AoDai.

Notwithstanding the foregoing, and without waiving the Committee's position, Congresswoman Sanchez recently reimbursed the Committee in the amount of \$145.12 for the purchase of the AoDai. Although both the Committee and Congresswoman Sanchez believe that the payment by the Committee for the AoDai was legally permissible, because the sum in question is so small and in an effort to avoid incurring any further costs or expenses related to this MUR, Congresswoman Sanchez decided to reimburse the Committee for the purchase of the AoDai. Because Congresswoman Sanchez has reimbursed the Committee for this expense, both the Committee and the Congresswoman request that the FEC take no action here. However, should the FEC determine that further action is warranted against the Committee or Congresswoman Sanchez, we request that the FEC send this matter to the FEC's Alternative Dispute Resolution Office.

Please contact me should you have any questions or require any further information.

Very truly yours,



Laurence S. Zakson
of REICH, ADELL & CVITAN

LSZ/ws:caw
Enclosures

cc: Adrienne Elrod

29044250757

Expenses for Lonell Sanchez from R-Elect f- Sanchez

Cab 8.10

Dress 145.12

\$153.22

Cab
NEW YORK
MED # 2024
DATE: 09/23/2007
START TIME 13:01
END TIME 13:14
TRIP # 13911
RATE No.
MILES 1.35
FARE \$ 8.10

Contact TLC Dial
3-1-1

29044250758
JULIA ALE
MINSTER, CA 92693
714-903-6699

BRONX NY
3-1-1 3-1-1
718-437-7187
718-437-7187

PS. 801
C. TYPE: VISA
IN TYPE: PURCHASE
DATE: AUG 31 2007

Asdai
(Vietnam
dress)

TOTAL

\$145.12

718 718 718
718 718 718
718 718 718

29044250759



29044250760



29044250761



29044250762



29044250763



29044250764



LORETTA SANCHEZ

WASHINGTON, DC 20515

1244

15-7434/2348

DATE 01-08-09

Pay to the
Order of

Re Elect Loretta Sanchez

\$ 145.12

ONE HUNDRED FORTY-FIVE ¹²/₁₀₀

DOLLARS & ¹²/₁₀₀

FOR THE
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

FOR THE
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

FOR THE
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

[Signature]

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